

LINDA LINGLE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
919 Ala Moana Boulevard, 4th Floor
Honolulu, Hawaii 96814

CLAYTON A. FRANK
DIRECTOR

DAVID F. FESTERLING
Deputy Director
Administration

TOMMY JOHNSON
Deputy Director
Corrections

JAMES L. PROPOTNICK
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON HOUSE BILL 231
RELATING TO CORRECTIONAL FACILITIES

by
Clayton A Frank, Director
Department of Public Safety

House Committee on Public Safety
Representative Faye P. Hanohano, Chair
Representative Henry J. C. Aquino, Vice Chair

Wednesday, February 18, 2009; 2:00PM
State Capitol, Conference Room 309

Representative Hanohano, Representative Aquino, and Members of the Committee:

The Department of Public Safety (PSD) opposes House Bill 231, which seeks to require the PSD to report any inmate and correctional facility employee deaths to the President of the Senate, Speaker of the House of Representatives, and the Legislature Public Safety Committee Chairs within 24 hours.

The PSD appreciates the Legislature's interest in these types of unfortunate events, but we believe this measure is unnecessary. At present, the PSD already has in place well established policies and procedures regarding the internal reporting and investigations of such incidents in our facilities and those that may occur on the mainland. The PSD already notifies the Governor's Office of all serious incidents involving staff, inmates, or visitors to our facilities and those that house inmates from Hawaii on the mainland.

It should also be noted that all serious incidents including deaths are immediately reported to the appropriate authorities, including the police departments and medical examiners. Thorough Internal investigations of these incidents are also completed.

The PSD is concerned with the Medical Confidentiality issue with regards to the disclosure of Protected Health Information. Despite an individual's death, the cause of death is a Medical Record and thus, cannot be immediately released with specific written authorization. As you know, medical records, patient health information, and other type of medical records are protected from unauthorized disclosure by both State and Federal laws. Also, until an autopsy has been completed, the cause of death would be speculative at best. Therefore, meeting the 24-hour notification requirement with accurate information cannot realistically be accomplished.

The PSD is also very concerned with the legal ramifications of the proposed reporting requirements. Deaths occurring in a correctional facility often result in litigation against the State. The proposed reporting requirements and any subsequent discussions outside of the PSD will not have the Attorney-Client Privilege with regards to future litigation. Proceedings, discussions, or speculations regarding the incident may prove to be harmful in defending the State's position.

Thank you for the opportunity to provide testimony on this matter.

COMMUNITY ALLIANCE ON PRISONS

76 North King Street, Honolulu, HI 96817

Phone/E-Mail: (808) 533-3454/kat.caphi@gmail.com



COMMITTEE ON PUBLIC SAFETY

Rep. Faye Hanohano, Chair

Rep. Henry Aquino, Vice Chair

Wednesday, February 18, 2009

Room 309

2:00 P.M.

STRONG SUPPORT – HB 231 – Inmate Deaths

PBSTestimony@capitol.hawaii.gov

Aloha Chair Hanohano, Vice Chair Aquino and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative working to improve conditions of confinement for our incarcerated individuals, enhance our quality of justice, and promote public safety. We come today to speak for the 6,000+ individuals whose voices have been silenced by incarceration, always mindful that more than 2,000 of those individuals are serving their sentences abroad, thousands of miles from their homes and loved ones.

Community Alliance on Prisons strongly supports HB 231.

All too often the community hears rumors of a death in one of the facilities holding Hawai'i individuals, but it is virtually impossible to get information from the Department. This causes undue and unnecessary worry and concern for families whose loved ones are incarcerated.

In the interest of accountability and transparency, the department must report deaths in a publicly-funded correctional facility.

Community Alliance on Prisons supports accountability and transparency and urges the committee to pass this measure.

Mahalo for allowing us to testify in strong support of HB 231.



Via E-mail: PBSTestimony@Capitol.hawaii.gov
Committee: Committee on Public Safety and Committee on Labor and Public
Employment
Hearing Date/Time: Wednesday, February 18, 2009, 2:00 p.m.
Place: Room 309
Re: Testimony of the ACLU of Hawaii in Support of H.B. 231, Relating to
Correctional Facilities

Dear Chair Hanohano and Members of the Committee on Public Safety and Chair Rhoads and
Members of the Committee on Labor and Public Employment:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in strong
support of H.B. 231, which seeks to require the Department of Public Safety (“DPS”) to report to
the Legislature any inmate or correctional facility employee death within 24 hours.

The ACLU of Hawaii receives hundreds of requests for assistance from Hawaii inmates
each year, and conducts numerous investigations into prison officials’ actions. It is imperative
that the Legislature is immediately notified about the numerous injuries and deaths so that our
lawmakers can consider ways to prevent them in the future. We have particular concerns about
the private prisons on the mainland, because – given the distance – we cannot know whether an
inmate’s death was due to the denial of medical care, assault, or natural causes. Furthermore,
because private prisons are not yet subject to Hawaii’s open records laws, requests for
information are frequently denied (on the basis that these policies and procedures are
“proprietary”). These private prisons – and the entire Department of Public Safety – are in dire
need of the layer of accountability and transparency that this bill will add.

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in
the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation,
and public education programs statewide. The ACLU of Hawaii is a non-partisan and private
non-profit organization that provides its services at no cost to the public and does not accept
government funds. The ACLU of Hawaii has been serving Hawaii for over 40 years.

Thank you for this opportunity to testify.

Sincerely,

Laurie A. Temple
Staff Attorney
ACLU of Hawaii

American Civil Liberties Union of Hawaii
P.O. Box 3410
Honolulu, Hawaii 96801
T: 808.522-5900
F: 808.522-5909
E: office@acluhawaii.org
www.acluhawaii.org



the
**Drug Policy
Forum**

February 18, 2009

To: Representative Faye Hanohano, Chair
Representative Henry Aquino, Vice Chair
And Members of the Committee on Public Safety

From: Jeanne Ohta, Executive Director

RE: HB 231 Relating to Correctional Facilities
Hearing: February 18, 2009, 2:00 p.m., Room 309

Position: Support

I am Jeanne Ohta, Executive Director of the Drug Policy Forum of Hawaii. Thank you for this opportunity to testify in support of HB 231 which requires the Department of Public Safety to report to the legislature any inmate or correctional facility death within 24 hours.

Since the Department of Public Safety is responsible for the well-being of more than 6,000 incarcerated people, an incident as compelling as the death of an inmate or than of an employee warrant immediate reporting. This immediate notification would help stem rumors and help inform anxious family members; and provide a communication link between what happens in a correctional facility and policy makers.

The department should strive for transparency in its operations and forthrightness in its dealings with family members of those incarcerated and with the general public. This requirement is a good start.

Please pass HB 231. Thank you for the opportunity to testify.

Board of Directors
Pamela Lichty, M.P.H.
President

Kat Brady
Vice President

Heather Lusk
Treasurer

Katherine Irwin, Ph.D.
Secretary

Michael Kelley, D.Phil.

Richard S. Miller, Prof. of
Law Emer.

Robert Perkinson, Ph.D.

Donald Topping, Ph.D.
Founder 1929-2003

P.O. Box 61233
Honolulu, HI 96839

Phone: (808)-988-4386
Fax: (808) 373-7064

Email: info@dpfhi.org
Website: www.dpfhi.org



COMMITTEE ON PUBLIC SAFETY

Rep. Faye Hanohano, Chair
Rep. Henry Aquino, Vice Chair
Wednesday, February 18, 2009
2:00 PM
Room 309

**STRONG SUPPORT
HB 231 RELATING TO CORRECTIONAL FACILITIES**

Aloha Chair Hanohano, Vice Chair Aquino, and Members of the Committee:

My name is Carrie Ann Shiota, and I am writing in support of HB 231. I am an attorney on the island of Maui and have previously worked as a Public Defender, Civil Rights Enforcement Attorney, and staff member of a reentry program on Maui. I am also an active member of Community Alliance on Prisons. These experiences have shaped my advocacy efforts to promote accountability and transparency within our correctional system.

The Department of Public Safety has a duty to ensure that conditions of confinement meet federal and state constitutional standards and statutory laws for the incarcerated. Similarly, PSD has a duty to ensure that employees' rights under federal and state laws are respected. The death of an inmate or employee within state and private correctional facilities where Hawai'i prisoners are housed is of concern to the community and should be made known to the public - particularly in cases where PSD and private facilities have failed to meet their constitutional and statutory responsibilities to provide a safe and secure environment.

This bill is another step in ensuring accountability and transparency within correctional facilities that are supported by taxpayer dollars.

Mahalo for this opportunity to submit testimony in support of HB 231. Please pass this bill to the next Committee.

Respectfully submitted,

Carrie Ann Shiota, Esq.
Wailuku, Hawai'i
(808) 269-3858

COMMITTEE ON PUBLIC SAFETY

Rep. Faye Hanohano, Chair

Rep. Henry Aquino, Vice Chair

Wednesday, February 18, 2009

Room 309

2:00 P.M.

STRONG SUPPORT

HB 231 – Re: Inmate Deaths

PBSTestimony@capitol.hawaii.gov

Chair Hanohano, Vice Chair Aquino and Committee Members:

I am writing in strong support of HB 231. This bill increases transparency and accountability regarding tragic events such as death of an inmate in prison. Details regarding the death should be readily available to not only family members of the deceased but also the general public.

If an inmate's death is attributed to negligence, such as in failing to provide appropriate medical care or in allowing an inmate to be put in a dangerous situation, this is a major liability issue for the state. The more transparency there is, the better the state will be able to provide oversight and correct situations that open the state to being sued. Over \$5.5 million dollars have been paid out in claims against the state Department of Public Safety since 2000. Besides the liability issues, it is just the right thing to do for the family and for the public whose tax dollars are financing the prisons.

Thank you for considering this very common sense legislation.

Sincerely,

Diana Bethel
1441 Victoria St.
Honolulu, Hawaii 96822

TO: COMMITTEE ON PUBLIC SAFETY
Rep. Faye Hanohano, Chair
Rep. Henry Aquino, Vice Chair
Wednesday, February 18, 2009
2:00 PM
Room 309, Hawaii State Capitol

RE: Testimony in Support of HB 231 – Reporting a Death of Inmate Within 24 Hours

FROM: Atty Daphne Barbee-Wooten
1188 Bishop Street, Suite 1909, Honolulu, Hawaii 96813, (808) 533-0275

Dear Chair Hanohano and Members of the Committee on Public Safety:

My name is Attorney Daphne Barbee-Wooten. I am a private attorney practicing in Hawaii. I strongly support HB 231 which requires that Department of Public Safety report to the legislature the death of any inmate within 24 hours. It is my understanding that in the past there have been deaths of inmates and there has been no reporting to the legislature until later, sometimes months later. HB 231 ensures a prompt inquiry and investigation of the circumstances of the inmate's death. Please support this bill. It does not cost the State any money to have the Department of Public Safety report a death within 24 hours.

Dated: Honolulu, Hawaii

2-17-09
DZW
Daphne Barbee-Wooten
Attorney at Law

From: KenAkinaka@aol.com
Sent: Sunday, February 15, 2009 8:14 PM
To: ABraggs@aol.com; PBStestimony
Cc: poidogpub@hawaiiantel.net; ed.ochoa@yahoo.com
Subject: Re: Legislative testimony protocol for our branch relating to Bills in Hawaii...

Categories: Orange Category

Very Good. We are in support of this too!

Mahalo,

Ken Akinaka, MRA
Hepatitis Support Network of Hawai'i
Hepatitis Prison & Outreach Ministries
Prisoner Reintegration & Family Reunification Program
1286 Queen Emma Street
Honolulu, HI 96813
24-HR. cell # 808-221-6204

In a message dated 2/15/2009 4:36:07 P.M. Hawaiian Standard Time, ABraggs writes:

To expedite these matters, I will submit the NAACP position as that of the national position unless a majority of the board is against the position. In which case we will defer to a discussion during the meeting. Otherwise, I will submit our position to the below referenced legislative committee within two days of this notice to the executive committee.

Alphonso

PBStestimony@capitol.hawaii.gov

HB231 - http://www.capitol.hawaii.gov/session2009/bills/HB231_.pdf

RELATING TO CORRECTIONAL FACILITIES. Inmate and Correctional Facility Employee Deaths; Reporting Requirements
- Requires the department of public safety to report to the legislature any inmate or correctional facility employee death within 24 hours. (H) 1/22/2009 -- Pending introduction.

**RECOMMENDED NAACP BRANCH POSITION:
STRONG SUPPORT**

NOTE: We have lost several inmates since we started moving them to the mainland to serve time. Each of these cases have questionable practices with respect to how they were treated before, during , or after they passed. Our office continues to get calls and complaints about the treatment of Hawaii prisoners in the mainland as well as here.

NATIONAL NAACP: Ensuring fair and equitable trials and sentences: Equity in arrest, interrogation, pre-sentencing, jury selection, discovery, trial, sentencing, and appeal phases. Ensure that juveniles are appropriately protected and rehabilitated. Once arrested, blacks are three times more likely to be incarcerated than whites.

COMMITTEE ON PUBLIC SAFETY
Rep. Faye Hanohano, Chair

Rep. Henry Aquino, Vice Chair
Wednesday, February 18, 2009
2:00 PM
Room 309

Looking for work? [Get job alerts, employment information, career advice and job-seeking tools at AOL Find a Job.](#)

Need a job? [Find an employment agency near you.](#)

From: DDMaria121212@aol.com
Sent: Sunday, February 15, 2009 11:06 AM
To: PBStestimony
Subject: TESTIMONY HB 231

Follow Up Flag: Follow Up
Flag Status: Completed

Categories: Orange Category

WEDNESDAY, FEBRUARY 18, 2009

COMMITTEE ON PUBLIC SAFETY

Rep. Faye Hanohano, Chair
Rep. Henry Aquino, Vice Chair
Wednesday, February 18, 2009
2:00 PM
Room 309

STRONG SUPPORT
HB 231

I KNOW FROM PERSONAL EXPERIENCE THAT PSD AND CCA HIDE WHATEVER THEY CAN FROM THE LIGHT OF DAY. I HAVE BEEN DEALING WITH THE "RUN AROUND" "SLOW ROLL" "DELAY AND DENY" "RETALIATORY" TACTICS OF PSD AND CCA FOR OVER 10 YEARS. I HAVE SOME HORROR STORIES TO SHARE WITH ANY OF YOU THAT CARE TO KNOW ABOUT THEM. I HAVE BOXES OF LETTERS, AND PATHETIC REPSponses FROM THE ABOVE MENTIONED PARTIES. I HOPE THAT THIS LEGISLATION PASSES WITH NO OPPOSITION. MY GOD, THE MEN AND WOMEN ARE TAKEN AWAY FROM THEIR HOMES AND FAMILIES, THEN THEY HAVE TO FIGHT FOR EVERY MEDICATION, SUPPLEMENT, TREATMENT. THEY HAVE TO STAND OUTSIDE IN THE HEAT OF ARIZONA OR THE MONSOON RAINS, OR THE SAND STORMS, IN A PILL LINE FOR HOURS AT A TIME, NO MATTER HOW THEY FEEL. IF THEY CANNOT STAND IN THE PILL LINE, THEIR MEDICATIONS ARE DISCONTINUED. THIS IS ONLY ONE EXAMPLE OF THE CRAVEN POLICIES AT CCA. THE MAINLAND MONITORS HAVE NOT BEEN SEEN ONSITE FOR MONTHS. THEY ARE SUPPOSED TO PROTECT THE HAWAII INMATES FROM ABUSE, YET THEY ARE ABSENT. WHEN THEY ARE PRESENT, THEY ROLL OVER AND PLAY DEAD FOR THE WARDEN. IT IS DISGUSTING WHAT THE MONITORS HAVE IGNORED AT SAGUARO JUST TO GET ALONG AND MINIMIZE THE PAPERWORK.

PLEASE PASS THIS LEGISLATION. FAMILIES ARE BEING DAMAGED SO MUCH BY NOT KNOWING WHAT IS HAPPENING WITH THEIR LOVED ONES. MY SON IS DOING BETTER THAN MOST BECAUSE I CAN TYPE LETTERS AND MAKE CALLS, AND HE KNOWS HOW TO WRITE REQUESTS AND GRIEVANCES. THAT IS THE ONLY AVENUE THE MEN HAVE TO TRY TO GET WHAT THE CONTRACT STIPULATES. FOLLOWING THE CCA RULES REGARDING GETTING NEEDS MET HAS GOTTEN MY SON AND OTHERS THROWN INTO SEGREGATION CONSISTANTLY. THE WARDEN TOLD ME TO MY FACE IN SEPTEMBER 2008, THAT HE CHARGES "THE WRITERS WITH HINDERING STAFF IN THE PERFORMANCE OF THEIR DUTIES", AND "I EAT ACLU LAWSUITS FOR LUNCH". I SWEAR HE SAID THAT TO ME.

THANK YOU FOR YOUR ATTENTION. PLEASE AUDIT THAT FACILITY ASAP. IT WOULD BE HELPFUL TOO, IN MY OPINION, FOR THE INMATES TO ANONYMOUSLY RESPOND TO A LEGISLATORS SURVEY REGARDING THEIR EXPERIENCES ON THE MAINLAND AND IN THE ISLANDS.

DIANE DIMARIA

A Good Credit Score is 700 or Above. See yours in just 2 easy steps!